

INSPECTIONS & APPEALS

TERRY E. BRANSTAD
GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

RODNEY A. ROBERTS, DIRECTOR

DEMAND LETTER
CERTIFIED
Complaint Intake #: 32896-C
33098-C

April 1, 2011

Mary Glenn, Director
Emeritus at Urbandale
8525 Urbandale Avenue
Urbandale, IA 50322

RE: I. Final Complaint Investigation and Complaint Revisit Report
II. Sanctions – Conditional Operation
III. Appeals/Hearings
IV. Civil Penalty
V. Conclusion

Dear Ms. Glenn:

I. Final Complaint Investigation and Complaint Revisit Report – Emeritus at Urbandale, Urbandale, IA

Enclosed is the **Final Complaint Investigation and Complaint Revisit Report** completed by the Department of Inspections and Appeals (DIA) in accordance with Iowa Code chapter 231C and Iowa Administrative Code (IAC) chapters 481–67 and 481–69. The Report notes Regulatory Insufficiencies in the area(s) of: Evaluation of Tenant, Service Plan, Medications, Nurse Review, Staffing, Dementia Specific Education for Program Personnel, Record Checks, and Other (Not following program's own policies and procedures). **Emeritus at Urbandale** ("Program") is being assessed a \$10,000 civil penalty pursuant to Iowa Code section 231C.14 and 481 IAC 67.12(3)(a).

II. Sanction – Conditional Operation

As reflected in the Preliminary Report, the Program failed to comprehensively follow the regulations in IAC chapters 481–67 and 481–69. Due to the Program's noncompliance, current Regulatory Insufficiencies, and the findings of the on-site monitoring visit of February 28, March 1 and 4, 2011, the Program will remain under a Conditional Certificate, effective March 15, 2011.

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ADMINISTRATION
(515) 281-5457
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HEALTH FACILITIES
(515) 281-4115
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INVESTIGATIONS
(515) 281-5714
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The previous sanction(s) associated with the Conditional Certificate that remain in effect include: No new admissions until such time as the restriction and/or Conditional Certificate is lifted by the Department, Proof of Nurse Delegation completed within 30 days, and Proof of Registration within 30 days for Dementia Specific Education for program personnel.

III. Appeals/Hearings

The Program may appeal the DIA decision in accordance with IAC rule 481—67.13 within thirty (30) days of this notice, by submitting a request for appeal to DIA. A contested case hearing will be held pursuant to Iowa Code chapter 17A and IAC chapter 481—10. If the Program appeals the DIA decision, the civil penalty will be suspended pending the appeal process. If the Program does not appeal, the civil penalty is due within 30 days of notice.

IV. Civil Penalty

If, within 30 days of the receipt of this demand letter, you (1) do not request a formal hearing or withdraw your request for formal hearing, and (2) pay the civil penalty, the assessed penalty will be reduced by thirty-five percent (35%) pursuant to IAC rule 481—67.12(3)d. If you do not wish to request a formal hearing or wish to withdraw your request for formal hearing, please send a cover letter to the attention of **Rose Boccella** and remit the civil penalty assessed by check or money order in the amount of sixty five hundred dollars (\$6,500) within 30 business days after the receipt of this demand letter.

V. Conclusion

The Program is being assessed a \$10,000 civil penalty pursuant to Iowa Code section 231C.14 and 481 IAC 67.12(3)(a). The Plan of Correction (POC) submitted on March 25, 2011, has been reviewed and will constitute the final POC related to the on-site visit of February 28, March 1 and 4, 2011. The Request for Reconsideration for Evaluation of #3 and #14 has been accepted; however, the Request for Reconsideration for #2 has not been accepted. The tenant was evaluated on 1-18-2011, prior to the nurse review of 2-8-11 which documented weight loss and cognitive decline.

DIA may revisit the Program to confirm compliance in fulfilling the POC's corrective measures. If the Program wishes to appeal the final findings, the Program may do so within 30 days of this letter.

If you have any questions in regard to this letter and enclosed Report, please contact your Program Coordinator, Rose Boccella, at 515/281-7039.

Sincerely,

Ann Martin

Ann Martin, Bureau Chief
Adult Services Bureau

Enclosure

Iowa Department of Inspections and Appeals
Assisted Living Program
Final Complaint Investigation and Complaint Revisit Report

Assisted Living Program:

Mary Glenn, Director
Emeritus at Urbandale
8525 Urbandale Ave.
Urbandale, IA 50322

Complaint Intake #: 32896-C
33098-C

Date of Investigation:

February 28 and March 1 and 4, 2011

Monitor(s):

Joyce Kix, RN
Maribeth Freland, RN

Definitions:

The following definitions are relevant:

Regulatory Insufficiency - A violation of a statutory or rule provision within the Iowa Code or Iowa Administrative Code (IAC) governing assisted living programs. A regulatory insufficiency requires a plan of correction to be presented to, and approved by, the Department of Inspections and Appeals (DIA).

Plan of Correction - A written response to one or more regulatory insufficiencies that are rule violations. IAC r. 481-67.10(5). The plan should identify how, and by a specific date, an insufficiency will be corrected. The plan is due to DIA within ten (10) working days of the program's receipt of a Complaint Investigation Report. Depending on the circumstances, DIA may revisit the assisted living program to confirm progress in fulfilling a plan's corrective measures.

Dementia-specific assisted living program - An assisted living program certified under 481 IAC chapter 69 that: serves fewer than fifty-five (55) tenants and has five (5) or more tenants who have dementia between Stages 4 and 7 on the Global Deterioration Scale or serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the Global Deterioration Scale or holds itself out as providing specialized care for persons with dementia, such as Alzheimer's disease, in a dedicated setting.

Overview:

A complaint investigation on-site visit was conducted at Emeritus of Urbandale on February 28 and March 1 and 4, 2011. In preparing this report, the following information was considered:

Current Program Census:

Dementia Specific Program (DSP)* – A program that is a Dementia Specific Program by definition but may have tenants without cognitive disorder.

Current number of tenants in a DSP that serves fewer than 55 tenants and has 5 or more tenants who have dementia between Stages 4 and 7 on the Global Deterioration Scale (GDS): unknown

Current number of tenants without cognitive disorder: unknown

Total Population: 37

***At the time of the visit, the program could not definitively establish accurate GDS scores for all tenants.**

Tenant/Family Satisfaction Results – A community meeting was held with 22 tenants. The tenants reported the staff was kind and respectful. Although they stated they did not use the call light, they felt staff response was prompt. The tenants stated that all cares were provided as planned and the nursing staff was available when needed. They reported they would recommend the program to others.

Program History – The program received regulatory insufficiencies in the areas of: Service Plan, Medications, Tenant Rights and Criteria for Exclusion of Tenants during this certification period.

On-Site Monitoring Evaluation – The monitors made the observations detailed in the following areas.

A. Evaluation of Tenant

Complaint Allegation #32896: It was alleged a tenant had swollen legs which were reported to the nurse, but were never assessed. It got so bad the tenant was admitted to the hospital with a blood clot.

Tenant #9, a 71 year old, was admitted 1-30-11 with diagnoses of: Multiple Sclerosis, History of Transchemic Attacks, HTN, and Weakness. Review of the clinical record revealed staff identified edema, evaluated the tenant's condition in a timely manner and re-evaluated the condition twice daily, contacted the physician and the tenant was ultimately treated at the hospital for a blood clot.

- Regulatory Insufficiency: None noted.

Complaint Allegation #32896: It was alleged the nurse did not assess changes in tenant's conditions which were reported.

- Monitoring Observation: Tenant #2, an 81 year old, was admitted 5-4-10 with diagnoses of: Dementia, Anxiety, Atrial Fibrillation, and Hypertension (HTN). The service plan indicated the tenant had moderately severe cognitive decline. The clinical record included a nurse review dated 2-8-11 which documented the tenant had been experiencing a gradual decline in cognition and review of the tenant's weight indicated a 23 pound unintentional weight loss since admission. The clinical record contained a service plan dated and signed 2-9-11, however, the record lacked documentation that cognitive, health and functional evaluations had been completed.

Tenant #13, an 83 year old, was admitted 12-16-10 with diagnoses of: HTN, Dementia, Depression, and Agitation. The clinical record contained a nurse review dated 2-8-11 which documented the tenant had increased sleepiness and decreased appetite. This document also indicated the tenant required two staff to assist with cares due to combativeness. The clinical record lacked documentation of completion of cognitive, functional and health evaluations for the changes noted in condition.

- Regulatory Insufficiency: A program shall evaluate each tenant's functional, cognitive and health status within 30 days of occupancy. A program shall evaluate each tenant's functional, cognitive and health status as needed with significant change, but not less than annually, to determine the tenant's continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional or human service professional. A licensed practical nurse may complete the evaluation via nurse delegation with the tenant has not exhibited a significant change. (IAC r. 481-69.22(2))

B. Criteria for Exclusion of Tenants

The program received a regulatory insufficiency regarding Tenant #1, and #6 at the time of the November 2010 visit related to exceeding the criteria for retention at the assisted living level of care.

- Monitoring Observation: Tenant #1 and #6 have been discharged from the program.

Thirteen tenant files were reviewed and two staff was interviewed. The monitors did not find that any tenants currently exceed assisted living criteria for retention.

- Regulatory Insufficiency: None noted.

C. Service Plan

The program received a regulatory insufficiency regarding Tenant #1, and #6 at the time of the November 2010 visit related to service plans which did not identify their individual needs.

- Monitoring Observation: Tenant #1 and #6 have been discharged from the program.

The clinical record for Tenant #3 contained a Mini-mental Status Exam (MMSE) dated 9-14-10 which had not been completed with a final score. A note to the physician on 11-25-10 indicated the tenant continued to disrupt by continually yelling out and the tenant would also sit and cry. The tenant was admitted to hospice services on 12-2-10. The physician's orders dated January 2011 included orders for a supplement three times a day and thigh high compression stockings (Ted hose). The service plan dated 12-17-10 lacked inclusion of interventions of house supplement or assistance with Ted hose. The service plan also did not include services provided by hospice.

Tenant #5, an 87 year old, was admitted on 2/12/11 with diagnoses of Parkinson's Disease, Alzheimer's Disease, Anxiety, Depression and Hypertension. The tenant scored 3 on the GDS dated 2-9-11 which indicated mild cognitive decline. The tenant's clinical record indicated the physician approved a hospice referral with initiation of hospice services on 2-21-11. The tenant's service plan, initially prepared on 2-10-11, did not include any updates reflecting the initiation of hospice services and did not incorporate the hospice plan for services into the program's service plan.

Tenant #7, an 87 year old, was admitted on 1-7-11 with diagnoses of: Dementia, Osteoarthritis, Macular Degeneration and Chronic Pain. The tenant scored 4 on the GDS dated 2-7-11 which indicated a moderate cognitive decline. The program's weight records showed Tenant #7 lost six pounds between 1-21-11 and 2-9-11. The tenant's clinical record included a report to the tenant's physician on 2-18-11 noting the tenant had not been eating meals and snacks. The physician ordered a supplement four times daily to increase the tenant's calorie intake. The tenant's service plan, dated 2-7-11, did not include updates reflecting initiation of interventions to prevent further weight loss.

Tenant #13, an 83 year old, was admitted 12-16-10 with diagnoses of: HTN, Dementia, Depression, and Agitation. The clinical record indicated the tenant had moderately severe cognitive decline. The clinical record contained a nurse review dated 2-8-11 which documented the tenant required two staff to assist with cares due to combativeness. He monitor observed the tenant during the noon meal using his/her fingers to eat. The staff reported the tenant often refused to use utensils and would wipe the plate with his/her fingers and lick them. The service plan of 1-21-11 lacked inclusion of interventions to meet the tenant's specific needs.

- Regulatory Insufficiency: A service plan shall be developed for each tenant based on the evaluations conducted in accordance with subrules 69.22 (1) and 69.22 (2) and shall be designed to meet the specific needs of the individual tenant. The service plan shall subsequently be updated at least annually and whenever changes are needed. (IAC r. 481-69.26 (1))
- Regulatory Insufficiency: The service plan shall be individualized and shall indicate at a minimum: c. The service providers, if other than the program, including but not limited to providers of hospice care, home health care, occupational therapy, and physical therapy. (IAC r. 481-69.26 (4) c.)

D. Medications –

The program received a regulatory insufficiency regarding Medications related to documentation issues on the Medication Administration Record (MAR) and availability of medications at the time of the November 2010 visit.

Complaint Allegation #32896-C: It was alleged there were lots of medication errors.

- Monitoring Observation: During observation of noon medication pass on 2-28-11, Staff #6, a licensed practical nurse (LPN), gave Tenant #9 one Vitamin D 400 IU capsule. The tenants Medication Administration Record directed the nurse to give two Vitamin D 400 IU capsules at noon. The tenant's clinical record included a physician's order for two Vitamin D 400 IU capsules to be given at noon.

During the medication pass, the monitor noted the LPN signed off administration of a supplement, a high calorie milkshake, as given to Tenants #3, #5 and #11. The monitor did not observe the LPN give the three tenants the milkshake nor observe the tenants' possession of the milkshakes at the table during lunch service. The LPN reported the three tenants had not yet received the supplement as dietary staff hand out the supplements at 2:30 PM with snacks. The LPN concurred she had signed off the supplements as given, yet the tenants would not receive the drinks for another two hours. Dietary personnel clarified nutritional supplements are handed out at 10:00 am for the morning supplement and 2:30 pm for the noon supplement.

During observation of morning medication pass on 3-1-11, the monitors noted Staff #7, an LPN, had not yet completed the morning medication pass at 10:30 am. Tenant #5's MAR indicated the tenant should received one and a half Carbidopa/Levodopa 25-100 milligram (mg) tablets at 8:00 am. The tenant had not yet received this medication at 10:30 am.

Tenant #10's MAR indicated the tenant should have received Lasix 40 mg and Klor-Con M20 20 milliequivalents at 8:00 am. The tenant had not yet received either medication at 10:30 am. The tenant's next dose of Lasix was due to be given at noon.

- Regulatory Insufficiency: The administration of medications shall be provided by a registered nurse, a licensed practical nurse or advanced registered nurse practitioner registered in Iowa or by unlicensed personnel in accordance with requirements in 655-Chapter 6 governing nurse delegation. (IAC r. 481-67,5(6) a.)

The following information was identified during the investigation of the complaint.

E. Nurse Review

Monitoring Observation: Tenant #3's MAR for January 2011 contained direction dated 1-7-11 for staff to administer a house supplement to the tenant three times daily with meals. Staff did not document administration of the supplement to the tenant in the evening 22 of 23 days of the month. The nurse did not note the discrepancy between the MAR order and the lack of documentation of the tenant's receipt of the supplement.

Tenant #7's clinical record contained physician's orders, dated as completed on 2-18-11 and signed by the physician on 2-21-11, ordering a supplement to be given to the tenant four times daily. Staff #6, an LPN, reported all supplements ordered by the physician are placed on the MARs for staff signature with administration. Tenant #7's MAR for February 2011 lacked the transcription of the supplement order on 2-21-11 and lacked any documentation staff gave the supplement four times daily for seven of the seven days ordered in February. The nurse did not note the discrepancy between the physician's orders for the dietary supplement and the lack of documentation the tenant received the supplement.

Tenant #11's MAR for January 2011 contained direction to staff to administer a house supplement to the tenant three times daily. Staff did not document administration of the supplement to the tenant in the evening 26 of 31 days in the month. The nurse did not note the discrepancy between the MAR direction and the lack of documentation the tenant received the supplement.

Tenant #14's clinical record contained physician's orders, dated as signed by the physician on 11-18-10 and 2-11-11, ordering weekly weights to be monitored for the tenant. Both orders indicated the orders were valid for 90 days from the physician's signature. Staff #6, an LPN, reported all weekly weights are tracked on the MARs. Tenant #14's MARs for December 2010, January 2011 and February 2011 lacked any documentation of weekly weight monitoring. The Monthly Weight Book contained monthly weights on the tenant during this time period. The program's nurses routinely review MARs obtained from the pharmacy monthly for accuracy and transcription errors. A nurse also completed a nurse review of Tenant #14's medications on 12-17-10; however, she did not note the discrepancy between the physician's orders for weekly weights and the lack of documentation of completion of the weights.

- Regulatory Insufficiency: To monitor, at least every 90 days, or after a significant change in the tenant's condition, any tenant who receives program-administered prescription medications for adverse reactions to the medications and to make appropriate interventions and referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders. (IAC r. 481-69.27 (1))

F. Staffing

Complaint Allegation #32896-C: It was alleged that tenant's needs for assistance with bathing and toileting were not being met and staff were not adequately trained. It was also

alleged that staff did not answer call lights promptly and left tenants on the commode for unnecessarily long lengths of time. It was also alleged that a tenant sustained a pressure ulcer from being left in urine soaked incontinent wear for long periods of time. It was also alleged that staffing was inadequate which caused the staff to rush tenants resulting in falls without injury.

- Monitoring Observation: Review of the task sheet for shower assistance and tenant interview revealed staff responded promptly, at least within 15 minutes, and appropriately to tenant's requests for assistance.

Observation during on-site revealed staff cared for tenants efficiently and appropriately. Review of the incident reports for the past three months did not identify an increase in the amount of tenant falls while staff was present.

The program printed a random sample of the call light response. The monitors were unable to determine an accurate response time from review of that information. The Director explained that the pager system did not record the times if certain procedures were not followed by staff for resetting the system. The program was in the process of correcting the flaw in the system, but currently the system worked appropriately for tenants to call for assistance.

The personnel files for Staff #1, #2, #3, and #4, care attendants, were reviewed. The files lacked documentation of completion of required nurse delegation for assistance with tasks of daily living and assigned tasks such as application of compression stockings. The Director reported the prior nurse had been terminated in part for failure to complete delegations as directed.

The service plan for Tenant #2 indicated the tenant had moderately severe cognitive decline and required assistance with toileting but would often toilet independently. Observation during toileting and clinical record review revealed the tenant did not have an open pressure ulcer at the time of the on-site.

Complaint Allegation #33098-C: It was alleged a tenant fell, sustaining injuries which staff failed to follow up on.

Tenant #15, an 82 year old, was admitted 7-18-09 with diagnoses of: Diabetes, Dementia, Chronic Obstructive Pulmonary Disease, Cerebral Vascular Accident, HTN, Arthritis, Depression and Anxiety. The service plan dated 1-20-11 indicated the tenant had moderate cognitive decline. An event report dated 3-1-11, (completed by the registered nurse 3-3-11) indicated the tenant was found on the floor at 1:50 a.m. by Staff #4, a certified medication aide. The clinical record lacked documentation of communication with the nurse, family or doctor at that time. According to interview, Staff #4 felt there had been no injury so he asked another staff member to help move the tenant to bed and oxygen at 2 liters was applied per routine orders. Staff #4 reported the tenant was in some distress at the time, but when he checked at 2:30 a.m., the tenant was not in distress and pulse oximetry was assessed at 91%. Staff #4 documented on the Daily Observation and Monitoring Worksheet that the tenant denied hitting his/her head. The Service Notes completed by the LPN at the end of her shift, (1:30 p.m.) documented an assessment of vital signs with the tenant complaining of right-side pain. The LPN treated the tenant with

Tramadol at 11:00 a.m. and Tylenol at 12:30 p.m. with "some relief". The service note continued indicating the tenant was difficult to arouse. A family member came to the program and requested an ambulance be called. The clinical record lacked documentation that the registered nurse had completed an assessment of the tenant at any time during the day. The tenant arrived at the emergency room with a collapsed lung and six fractured ribs and was in significant respiratory distress. At this time the tenant's outcome is not known.

Staff #4, a certified medication aide hired 1-26-11, was in charge at the time of the tenant's fall. Review of the personnel file revealed the employee orientation checklist lacked completion of review of accident, injury and incident reporting. During interview, Staff #4 denied knowledge of the appropriate protocol to follow in the event of tenant falls.

- **Regulatory Insufficiency:** A sufficient number of trained staff shall be available at all times to fully meet tenant's identified needs. (IAC r. 481-67.9 (1))

G. Dementia-Specific Education for Program Personnel

- **Monitoring Observation:** The personnel files for Staff #1, #2, #3 and #4 were reviewed. These staff were hired during the month of January 2011 to provide care for tenants. The personnel files lacked documentation of completion of the required eight hours of dementia-specific training. The Director concurred with this finding.
- **Regulatory Insufficiency:** All personnel employed by or contracting with a dementia-specific program shall receive a minimum of eight hours of dementia-specific education and training within 30 days of either employment or the beginning date of the contract, as applicable. (IAC r. 481-49.30(1))

The following information was identified during the investigation of the complaint.

H. Record Checks

- **Monitoring Observation:** Staff #1, a care attendant, was hired during 1-19-2011. The personnel file contained documentation of a positive criminal history check. The personnel file lacked evidence of completion of the required evaluation by the Department of Human Services (DHS) to determine if employment was prohibited.
- **Regulatory Insufficiency:** Pursuant to Iowa code section 135C.33, a prospective employee of a program shall have a criminal history check, dependent adult abuse, and child abuse check performed before the prospective employee starts work. If a prospective employee has a criminal history or an abuse history, the prospective employee shall not be employed by the program unless the department of Human Services has performed an evaluation and determined that the record does not warrant the employment prohibition. Proof of the pre-employment background check shall be maintained in the program's employee file. The program must meet all requirement of Iowa code 135C 33 and Administrative rules adopted pursuant to Iowa Code section 135 C 33. (IAC r. 481-67.9 (3))

I. Tenant Rights

Complaint Allegation #32896-C: It was alleged staff swore and yelled at tenants.

- Monitoring Observation: During a community meeting, the tenants reported all staff were kind and respectful. Two staff interviewed reported no observations of staff being rude or yelling at tenants.
- Regulatory Insufficiency: None noted.

J. Other

The program received a regulatory insufficiency at the time of the November 2010 visit related to autonomy in regard to tenants choosing their living arrangements.

- Monitoring Observation: The program provided documentation the occupancy agreement had been changed to include a letter of understanding regarding companion shared rooms. The addendum included assurance that the tenant's family and/or tenant would take part in the selection and arrangements for room-mates.
- Regulatory Insufficiency: None noted

K. Other

- Monitoring Observation: The service plan for Tenant #15, dated 1-20-11, indicated the tenant had moderate cognitive decline. An event report dated 3-1-11, (completed by the registered nurse 3-3-11) indicated the tenant was found on the floor at 1:50 a.m. by Staff #4, a certified medication aide. The clinical record lacked documentation of communication with the nurse, family or doctor at that time. According to interview, Staff #4 felt there had been no injury so he asked another staff member to help move the tenant to bed and oxygen at 2 liters was applied per routine orders. Staff #4 reported the tenant was in some distress at the time, but when he checked on him/her at 2:30 a.m., the tenant was not in distress and pulse oximetry was assessed at 91%. Staff #4 documented on the Daily Observation and Monitoring Worksheet that the tenant denied hitting his/her head.

The program's policy for Fall Management directed the following protocol if a tenant falls:

- a. Do not move the tenant
- b. Notify appropriate healthcare professionals
- c. Call 911 as indicated
- d. Notify the physician as per protocol
- e. Notify family members/significant as per protocol

The program staff failed to follow the provided policy/procedure for follow-up of a fall with the tenant sustaining significant injury.

- Regulatory Insufficiency: A program's policies and Procedures must meet the minimum standards set by applicable requirements. The program shall follow the policies and procedures established by the program. All programs shall have policies

and procedures related to the reporting of incidents including allegations of dependent adult abuse. (IAC r. 481-67.2)

Dated this 31st day of March 2011.